

Senator Wayne A. Harper proposes the following substitute bill:

AERONAUTICS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to aeronautics.

Highlighted Provisions:

This bill:

- ▶ transfers certain functions related to aeronautics from the State Tax Commission to the Department of Transportation;
- ▶ grants rulemaking authority to the Department of Transportation;
- ▶ permits the Department of Transportation to assess the value of certain aircraft;
- ▶ requires an aircraft without a valid airworthiness certificate to apply for a certificate of registration; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-404, as last amended by Laws of Utah 2008, Chapter 206



26 **72-10-109**, as last amended by Laws of Utah 2017, Chapter 364

27 **72-10-110**, as last amended by Laws of Utah 2016, Chapters 224 and 333

28 **72-10-112**, as last amended by Laws of Utah 2016, Chapter 333

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **59-2-404** is amended to read:

32 **59-2-404. Uniform fee on aircraft -- Collection of fee by Department of**
33 **Transportation -- Distribution of fee.**

34 (1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
35 beginning on January 1, 2009, an aircraft, required to be registered with the state is:

36 (a) exempt from the tax imposed by Section **59-2-103**; and

37 (b) in lieu of the tax imposed by Section **59-2-103**, subject to a uniform statewide fee
38 of \$25.

39 (2) (a) The Department of Transportation shall collect the uniform fee [shall be
40 collected by the commission with the registration fee and distributed] and provide the uniform
41 fee to the commission for distribution to the county in which the aircraft is based.

42 (b) A based aircraft is an aircraft which is hangared, tied down, ~~[or parked at the~~
43 ~~airport]~~ parked, or domiciled in the state for a plurality of the year.

44 (3) (a) The uniform fees received by a county under Subsection (2) shall be distributed
45 to each taxing entity within the county in the same proportion in which revenues collected from
46 the ad valorem property tax are distributed.

47 (b) Each taxing entity described in Subsection (3)(a) that receives revenues from the
48 uniform fee imposed by this section shall distribute the revenues in the same proportion in
49 which revenues collected from the ad valorem property tax are distributed.

50 (4) ~~[The commission shall promulgate]~~ In accordance with Title 63G, Chapter 3, Utah
51 Administrative Rulemaking Act, the Department of Transportation may make rules to
52 implement this section.

53 Section 2. Section **72-10-109** is amended to read:

54 **72-10-109. Certificate of registration of aircraft required -- Exceptions.**

55 (1) (a) A person may not operate, pilot, or navigate, or cause or authorize to be
56 operated, piloted, or navigated within this state any civil aircraft ~~[located]~~ domiciled in this

state unless the aircraft has a current certificate of registration issued by ~~[this state through the county in which the aircraft is located]~~ the department.

(b) ~~[This]~~ The restriction described in Subsection (1)(a) does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

(3) Unmanned aircraft as defined in Section 72-14-102 are exempt from the state registration requirement under Subsection (1).

Section 3. Section **72-10-110** is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the Federal Aviation Administration aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the average wholesale value of ~~[the]~~ an aircraft under Subsection (2)(a) or (3)(d), the ~~[State Tax Commission]~~ department shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(c) For an aircraft not listed in the Aircraft Bluebook Price Digest, the department shall

88 calculate the average wholesale value of the aircraft using common industry standards.

89 (d) (i) An owner of an aircraft may challenge the department's calculation of the
90 average wholesale value of the aircraft.

91 (ii) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
92 Administrative Rulemaking Act, to establish a process for challenging the department's
93 calculation under Subsection (2)(d)(i).

94 (3) (a) An annual registration fee of \$100 is imposed on ~~[the following aircraft]~~ an
95 aircraft that is used:

96 ~~[(i) an aircraft not listed in the Aircraft Bluebook Price Digest;]~~

97 ~~[(ii) an experimental aircraft; or]~~

98 ~~[(iii) an aircraft that is used:]~~

99 ~~[(A)]~~ (i) exclusively by an entity that is exempt from federal income taxation under
100 Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59,
101 Chapter 2, Property Tax Act; and

102 ~~[(B)]~~ (ii) for the emergency transportation of medical patients for at least 95% of its
103 flight time.

104 (b) An annual registration fee is imposed on an aircraft ~~[50]~~ 60 years or older equal to
105 the lesser of:

106 (i) \$100; or

107 (ii) the annual registration fee provided for under Subsection (2)(a).

108 (c) ~~[An]~~ Except as provided in Subsection (3)(c)(ii), an owner of an aircraft that is in
109 the manufacture, construction, fabrication, assembly, or repair process; is not complete; and
110 does not have a valid airworthiness certificate [for a period of six months or more]:

111 ~~[(i)]~~ (A) ~~[may not]~~ shall apply for a certificate of registration required under Section
112 72-10-109; and

113 ~~[(ii)]~~ (B) is exempt from ~~[an]~~ the annual registration fee ~~[until the aircraft has a valid~~
114 airworthiness certificate] described in Subsection (2)(a).

115 (ii) The registration requirement described in Subsection (3)(c)(i) does not apply to an
116 aircraft that, in accordance with Section 59-12-104, is exempt from the taxes imposed under
117 Title 59, Chapter 12, Sales and Use Tax Act.

118 (d) An annual registration fee of .25% of the average wholesale value of the aircraft is

imposed on an aircraft if the aircraft is:

- (i) used by an air charter service for air charter; and
- (ii) owned by a person other than the air charter service.

(e) The annual registration fee required in this section is due on December 31 of each year.

(4) (a) The ~~[State Tax Commission]~~ department shall provide a registration card to an owner of an aircraft if:

- (i) the owner complies with the registration requirements of this section; and
- (ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the ~~[State Tax Commission]~~ department to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the ~~[State Tax Commission]~~ department shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are initially registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) For purposes of this section, an aircraft based at the owner's airport means an aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use, or of an airport that receives grant funding from the state, shall provide a list of all aircraft based at the owner's airport to the ~~[Utah Division of Aeronautics]~~ department.

(9) ~~[(a) The Utah Division of Aeronautics]~~ The department shall maintain a statewide database of all aircraft based within the state.

~~[(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the State Tax Commission with the data the State Tax Commission requires from the database described in Subsection (9)(a).]~~

~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (9)(a).]~~

~~[(d) The State Tax Commission shall annually provide the Utah Division of~~

150 ~~Aeronautics a list of all aircraft registered in this state.]~~

151 (10) The ~~[State Tax Commission]~~ department may suspend or revoke a registration if
152 ~~[it]~~ the department determines that the required fee has not been paid and the fee is not paid
153 upon reasonable notice and demand.

154 Section 4. Section **72-10-112** is amended to read:

155 **72-10-112. Failure to register -- Penalty -- Compliance audits and inspections --**
156 **Rulemaking.**

157 (1) Failure to register any aircraft required to be registered with the state ~~[in the county~~
158 ~~in which the aircraft is located]~~ subjects the owners of the aircraft to the same penalties
159 provided for motor vehicles under Sections [41-1a-1101](#), [41-1a-1301](#), and [41-1a-1307](#).

160 (2) (a) The ~~[division]~~ department shall conduct compliance audits and inspections as
161 needed to enforce state laws related to the registration of aircraft.

162 (b) The ~~[division]~~ department shall coordinate with airport operators to determine and
163 verify accurate reporting of aircraft that are based within the state for the purpose of
164 administering and enforcing state aircraft registration laws.

165 (3) (a) In addition to the penalties described in Subsection (1), the ~~[division]~~
166 department may impose a fine of 10% of the registration fee for the first month and 5% of the
167 registration fee for each subsequent month an aircraft is operated in violation of Section
168 [72-10-109](#).

169 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
170 ~~[division]~~ department shall makes rules establishing procedures for the enforcement of state
171 aircraft registration laws and the administration of penalties described in this section.

172 (c) The ~~[division]~~ department shall comply with the procedures and requirements of
173 Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted
174 for the enforcement of penalties under this section.